

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

NATHANIEL SHAW,)	
)	
Plaintiff,)	
)	Civil Action No.: 2:07-CV-606-ID
v.)	
)	
D. T. MARSHALL, et al.,)	
)	
Defendants.)	

RESPONSE TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

COME NOW Defendants D.T. Marshall and Gina Savage, pursuant to this Court's order of July 19, 2007, and submit the following:

1. On July 19, 2007, the Court ordered the Defendants to show cause why Plaintiff's Motion for Preliminary Injunction should not be granted.
2. In his motion, Plaintiff requests that he be referred to an eye specialist outside of the Montgomery County Detention Facility. Plaintiff also claims that he is a diabetic and that he does not receive a snack after supper at 5:00 p.m.
3. The Montgomery County Detention Facility has contracted with an outside medical provider, Dr. Johnny E. Bates, M.D., to provide healthcare for inmates at the Montgomery County Detention Facility. Dr. Bates has filed an affidavit with this Court regarding his treatment of the Plaintiff and Defendants adopt and incorporate herein the Affidavit of Johnny E. Bates, M.D., in support of this response. Dr. Bates testified that "the inmate's decreased vision is likely due to decreased visual acuity from a refractive error, which is correctable with the use of his glasses." (Bates Affidavit, ¶ 3). Dr. Bates

further testified that in his opinion Plaintiff had “no treatable condition that would warrant an offsite evaluation.” (Bates Affidavit, ¶ 2).

4. Defendants further submit the attached affidavit of Silas Orum, III. As set forth in the affidavit of Orum, Plaintiff now has his eyeglasses. (Orum Affidavit, ¶ 2).

5. Defendant further submits the attached affidavit of Barbara Palmer-Byrd. As set forth in the affidavit of Palmer-Byrd, Plaintiff is being monitored on an individual basis to determine his blood sugar levels and his levels remain in the normal range. (Palmer-Byrd Affidavit, ¶ 2).

/s/ Constance C. Walker
Thomas T. Gallion, III (ASB-5295-L74T)
Constance C. Walker (ASB-5510-L66C)
Attorneys for the Defendants
D. T. Marshall and Gina Savage

OF COUNSEL:

HASKELL SLAUGHTER YOUNG & GALLION, LLC

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Montgomery, Alabama 36103-4660
(334)265-8573
(334)264-7945 Fax

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of August, 2007, I electronically filed the foregoing with the Clerk of the Court using the **CM/ECF** system that will send notification of such filing to the following counsel:

Wayne P. Turner
Post Office Box 152
Montgomery, Alabama 36101-0152

Allison H. Highley
City of Montgomery
Legal Department
Post Office Box 1111
Montgomery, Alabama 36101

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the following by causing a true and complete copy of same to be deposited in **the United States Mail**, sufficient first class postage prepaid, on this the 8th day of August, 2007, addressed as follows:

Nathaniel Shaw
Montgomery County Detention Facility
Post Office Box 4599
Montgomery, Alabama 36103

/s/Constance C. Walker
OF COUNSEL

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CIVIL ACTION NO. 2:07-CV-606-ID

AFFIDAVIT OF BARBARA PALMER-BYRD

Before me, a Notary Public, personally appeared Barbara Palmer-Byrd and after being
duly sworn, did say as follows

1. My name is Barbara Palmer-Byrd. I am Captain of Inmate Programs/Services with the Montgomery County Sheriff's Office Detention Facility.

2. The Montgomery County Detention Facility does not have a policy regarding dispensing medication to inmates. Health care for inmates housed in the Montgomery County Detention Facility is contracted to an outside medical provider. According to this medical provider, inmates who are diagnosed as diabetic are monitored on an individual basis to determine their blood sugar level. Inmate Nathaniel Shaw takes an oral medication for his diabetes. His blood sugar level is monitored and remains in the normal range. Therefore Inmate Shaw does not require additional food or snacks.

Barbara Palmer-Byrd

Sworn to and subscribed before me this 8th day of August, 2007.

Anna (Aline) Cates
Notary Public
My Commission Expires September 13, 2010